

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
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Gangtok

Friday 24th January, 2014

No.14

GOVERNMENT OF SIKKIM
RURAL MANAGEMENT & DEV. DEPARTMENT
GANGTOK, TASHILING.

No. 21/RM & DD/P

Date: 20.01.2014

NOTIFICATION

WHEREAS, Article 162 of the Constitution provides that the executive power of the State is co-extensive with the legislative power of the State;

AND WHEREAS, the executive power of the State under Article 162 of the Constitution of India extends to matters with respect to which the Legislature of the State has power to make laws;

AND WHEREAS, clause (3) of Article 246 of the Constitution provides that Legislature of the State has exclusive power to make laws for such State in respect of any matter enumerated in List II in the Seventh Schedule of the Constitution, referred to as the State List;

AND WHEREAS, under Entry 5, List II, State List of the Seventh Schedule to the Constitution of India, the State has exclusive power to make laws with respect to a local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration;

AND WHEREAS, in the absence of any law or notification in the State providing for any regulatory mechanism or in the form of an inquiring authority for redressal of the grievances/complaints of Panchayati Raj Institution and urban local self Government, the State Government, being competent deems it expedient to constitute such an Inquiring Authority and also to prescribe method and procedure to be followed to deal with the grievances and complaints.

Now, therefore, in exercise of the powers conferred by Article 162 of the Constitution, the State Government hereby constitutes Panchayat Inquiring Authority/Ombudsmen for the entire State and is further pleased to appoint Shri. R.K. Purkayastha, Principal Secretary, Law & Parliamentary Affairs as the Panchayat Inquiring Officer for the said Panchayat Inquiring Authority/Ombudsmen to deal with complaints and grievances of Panchayati Raj Institution and Urban Local Self Government in the State in the following manner, namely:-

1. The Panchayat Inquiring Officer shall hold proceeding at Gangtok and may also, if considered expedient, hold proceedings or part of the proceedings at other district headquarters from time to time to deal with complaints and grievances, if any.
2. The Panchayat Inquiring Officer shall have all the powers of a Civil Court under the Code of Civil Procedure 1908 (5 of 1908) for the purpose of taking evidence on oath (with such Inquiring Officer is hereby empowered in impose) and of enforcing the attendance of witnesses and compelling the production of documents and material object and the Inquiring Officer shall be deemed to be Civil Court for the purpose of Section 195 and of Chapter XXVI of the Code of Criminal Procedure 1973 (2 of 1974).
3. Any person may by an application or through a legal practitioner file application before the Panchayat Inquiring Officer setting out grounds of complaint and the prayer for relief and the State Government may also refer or forward any complaint before such Panchayat Inquiring Officer.
4. The Panchayat Inquiring Officer shall make a brief memorandum of substance of the complaint and issue notice to the concerned and also proceed to take evidence of witnesses as may be required from time to time and hear the parties and submit his report to the State Government and the State Government may consider the report and before taking any final decision on the report, where it intends to take action against the person complained, give him an opportunity to file reply, if any, on the report, a copy of which may be forwarded to him and on receipt of such report, the person against whom the complaint was made, may file his response, if any within a period of one month from the date of receipt of copy of the report of Inquiring Officer.
5. The Panchayat Inquiring Officer shall have the discretion to either accept or reject a complaint if in his opinion; such complaint does not disclose any offence or is frivolous or vexatious provided that while rejecting such complaint he shall record the reason.
6. No complaint shall be entertained if it is a subject matter of any pending legal proceedings in any other court of law.
7. No complaint shall be entertained unless the subject matter of the complaint has not occurred at a period which is more than 5(five) years on the date the complaint is filed.
8. The Panchayat Inquiring Officer will deal with all complaints and grievances in respect of all the elected functionaries and officials of the Zilla Panchayat, Gram Panchayat and all Urban Local Bodies in Sikkim.
9. The Panchayat Inquiring Officer shall make inquiries in respect of charges on any action involving mal administration or irregularities in the discharge of administrative functions by Panchayat/Urban Local Bodies and submit report to the State Government through Secretary, Rural Management and Development Department and Urban Development and Housing Department as the case may be.
10. Infrastructural, Administrative and Technical support including staff for the office of Panchayat Inquiring Officer shall be provided by RM&DD, UD&HD & Law.

11. Financial Expenditure/costs as may be incurred by the office of Panchayat Inquiring Officer shall be borne by RM&DD, UD&HD & LAW.
12. Annual Budget for meeting the expenditure and other financial requirement of the office of Panchayat Inquiring Authority/Ombudsman shall be prepared in advance as usual reflecting the requirement and proposal for incurring administrative expenses for the next financial year.
13. Other terms and conditions, as will be notified from time to time, will form part of this notification.

**Secretary,
Rural Management & Dev. Department,
Government of Sikkim,
Gangtok.**

